**HIGH COURT OF UTTARANCHAL AT NAINITAL**

(Court's order whether the case is not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 362 of 2004 (S/S)

Triveni

Vs.

Nagar Palika Parishad, Nainital & others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 9.4.2004

Initial of Judge

**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Writ Petition No. 362 (SS) of 2004

Triveni …….. Petitioner

Versus

Nagar Palika Parishad, Nainital & others ……. Respondents

Sri A.S. Bisht, Advocate for the petitioner
Standing Counsel and Sri Sharad Sharma for the respondents.

Dated: 9.4.2004

**Hon'ble Rajesh Tandon J.**

Rule. Respondents waive service.

By the present writ petition the petitioner has prayed for the issue of a writ order or direction in the nature of mandamus directing the respondents to pay gratuity, arrears of pension etc. to the petitioner.

Briefly facts giving rise to the present writ petition are that the petitioner was working as Sweeper in Nagar Palika Parishad, Nainital. She retired after attending the age of superannuation on 31.7.2002. After her retirement the petitioner approached the authorities concerned for payment of post-retirement benefits i.e. gratuity and pension etc. but the respondents did not take care to pay the same inspite of the repeated request made by the petitioner.

The petitioner has stated that on 4.12.2003 Executive officer, Nagar Palika Parishad, wrote a letter to the Commissioner/ Additional Director, Local Bodies, Kumaon Division, Nainital for issuance of the order of payment to the petitioner. The respondent no.2 wrote a letter on 25.2.2004 to the State Bank of India and requested to arrange the payment of Rs. 80256.00 from the fund of non centralized services pension. The petitioner has alleged that despite of the sanction by respondent no. 2 pensionary benefits have not been paid to the petitioner.

In 1985 (1) S.C.C. 427 State of Kerala and other Vs. M. Padmanabhan Nair the Hon'ble Supreme Court has held that pension is a valuable right the property and the petitioner has a right to claim by virtue of the continuous services rendered by him. The observations of the Apex Court are quoted below:-

*"Pension and gratuity are no longer any bounty to be disturbed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."*

The aforesaid judgment of the Apex Court has also been followed in JT 1999 (2) SC 359 Dr. Uma Agarwal Vs. State of U.P. & another and has held as under:-

*"Now-a-days, several writ petitions are being filed in this court and various High Courts seeking relief for disbursement, of retrial benefits, because of inordinate delays in payments of these benefits. As Krishna Iyer J. stated in State of Mysore Vs. C.R. Sheshadri & others (1974(4) S.C.S. 308), a retired government official is sensitive to delay in drawing monetary benefits. And to avoid posthumous satisfaction of the pecuniary expectation of the superannuated public servant- not unusual in government, it is becoming necessary to issue directions, in several cases, for early payment of these dues. In yet another case in State of Kerala and others Vs. M. Padmanabhan Nair (1985 (1) SCC 429 this court had occasion to point out that usually 'the delay occurs by reasons of non-production of the L.P. C. (Usually the delay occurs by reasons of non-production of the L.P. C. (last pay certificate) and the N.L.C. (no liability certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is very much known in advance were fail to appreciate why the process of colleting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these*

*dues at the current marked rate should commence at the expiry of two months from the date of retirement.*

In R. Kapur Vs. Director of Inspection (Painting and publication) Income Tax and another, reported in (1994) 6 Supreme Court Cases 589 the Apex Court after relying the judgment of the Apex Court in State of Kerala Vs. M. Madmanabhan Nair 1985 (1) S.C.C. page 429, has held as under:-

*"8. In this appeal before us the appellant urges that he would be entitled to 18% interest at least in view of judgment of this court in State of Kerala Vs. M. Padmanabhan Nair. Relying on this ruling, it is submitted that there is unjustified culpable delay in issuing the No. Demand. Certificate. The Tribunal having held that DCRG cannot be withheld because of the pendency of the claim for damages should have awarded interest at the rated of 18% per annum.*

……

*10. This court in M. Madmanabhan Nair case has held as under:-*

*Pension and gratuity are no longer any bounty to be disturbed by the Government to it employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current marked rate till actual payment."*

In view of the aforesaid, the respondents cannot withhold the benefits admissible to the petitioner.

The respondents are, therefore, directed to release all retirement benefits admissible to the petitioner within one month from the date of

filing certified copy of this order. The petitioner shall also be entitled to get interest on pension @ 6% per annum besides this she shall also be paid admissible interest on G.P.F. gratuity, G.I.S. etc.

With the aforesaid observations the writ petition is allowed. No order as to costs.

Sd/-

9.4.2004
*Dhyani